

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MEL TYRON EDWARD,

Plaintiff, Case No. 2:03-cv-02584 ALA (P)

vs.

STEPHEN SCARSELLA, et al.,

Defendants. ORDER

The parties are directed to participate in a telephonic status conference on May 2, 2008, at 10:00 a.m. to discuss the situs for taking Mr. Edward's deposition and Plaintiff's motion to discover Mr. Scarsella's mental records.

At our telephonic status conference on Monday, March 24, 2008, Mr. Christine Carr O'Connor stated that discovery of Mr. Scarsella's "psychological history could shed light on his motivation, his intentions on the incident in question." Rep. Tr. at 2:14-15. She further explained that if Mr. Scarsella "tends to respond or has problems with reacting to inmates out of anger, then that would be very relevant to our claim . . . and . . . refute Scarsella's defense." *Id.* at 4:16-18. The parties agreed that the Court would review Mr. Scarsella's medical records in

1 camera to protect his privacy in order to determine whether the mental records contain relevant
2 evidence that would support Mr. Edward's case-in-chief or impeach Mr. Scarsella's defenses.

3 The Court has reviewed the records submitted by counsel for Mr. Scarsella. He was
4 examined by Alfred P. French, M.D., a board certified psychiatrist, on May 18, 2004, at the
5 request of the Department of Industrial Relations, Industrial Medical Counsel to determine
6 whether he was eligible for worker's compensation. Dr. French did not evaluate Ms. Scarsella's
7 conduct or motivation regarding the incident involving Mr. Edward. He examined Mr. Scarsella
8 to determine whether he was entitled to worker's compensation based on his contention that he
9 suffered from stress resulting from "harassment about my job assignment" and the fact that
10 felony counts had been filed against him. Dr. French concluded that Mr. Scarsella was "disabled
11 by his Paranoid Personality and Mood Disorder" which pre-existed the events of his employment
12 and are not work related. Mr. French did not express any opinion regarding whether Mr.
13 Scarsella reacted to inmates' conduct out of anger.

14 Patrick T. Dolan, M.D., F.A.P.A., a board certified psychiatrist filed a report on
15 December 23, 2002, after examining Mr. Scarsella at the request of the State Compensation
16 Insurance Fund. In his report, Dr. Dolan reported that "I find no evidence for a mental
17 disorder/disability until 08-16-02 when claimant was counseled by Associate Warden Chastain."
18 (emphasis in original). In a later passage, Dr. Dolan stated: "I opine that in the absence of
19 meeting with Associate Warden Chastain on 08-16-02 that the Claimant would not have
20 developed a mental disorder/disability." In his complaint, Mr. Edward alleged that he was
21 attacked by Mr. Scarsella on June 8, 2002.

22 Mr. Scarsella was also interviewed by Frank Nieto, LCSW, on August 28, 2002. Mr.
23 Nieto's report states that Mr. Scarsella complained of "being 'railroaded' by his supervisors and
24 admits to having difficulty adjusting to the unwarranted allegations which are not all that clear to
25 him." Mr. Nieto diagnosed Mr. Scarsella of suffering from "acute Stress Disorder."

26 After hearing from counsel at our next teleconference on May 2, 2008, the Court will rule
27 on Mr. Edward's request for discovery of Mr. Scarsella's medical records.

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29 It is hereby ORDERED that a conference call is set for May 2, 2008, at 10:00a.m. The

parties shall make arrangements with a conference call entity for the conference call, and provide the telephone number and pin number to Harry Vine, Sacramento CRD for Judge Alarcón, at 916-930-4091 or hvine@caed.uscourts.gov no later than noon on April 29, 2008.

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DATED: April 24, 2008

/s/ Arthur L. Alarcón

UNITED STATES CIRCUIT JUDGE
Sitting by Designation